

10/018128

UNITED STATES PATENT APPLICATION TRANSMITTAL FORM

BOX PCT  
COMMISSIONER FOR PATENTS  
Washington, D.C. 20231  
Attention: DO/EO/US

Docket No.: 550.0122USQ1

Sir:

Transmitted herewith for filing is the patent application of

Applicant (s): Dennis M. Martin, Michael Traudt, Paul Attar and Isabella L. Morelli-Abrams

For: METHOD OF IMPROVING THE APPEARANCE OF EPITHELIA

International Application No.: PCT/US00/11529

International Filing Date: 28 April 2000

ENTERING OF U.S. NATIONAL STAGE UNDER 35 U.S.C. §371

Transmitted herewith for filing are the following documents submitted under 37 C.F.R. §1.495(b) for the purpose of entering the national stage in the United States of America as an elected office. Enclosed are:

Specification and Claims with Declaration;

XXXX Specification and Claims *without* Declaration;

0 sheets of drawings;

Preliminary Amendment;

An Assignment of the invention to: Assignee Name: Avon Products, Inc. Assignee Residence: New York, New York, including \$40.00 recordation fee;

The certified copy of a priority application;

XXXX Information Disclosure Statement with copies of patent(s) (Form - PTO-1449);

Verified Statement of Small Entity (Independent Inventor);

Verified Statement of Small Entity (Small Business Concern);

XXXX Priority of application PCT International Application No.  
PCT/US00/11529 , filed on 28 April 2000 is claimed under 35  
 U.S.C. §119 and U.S. Patent Application 09/301,570 filed on 29  
April 1999 is claimed under 35 U.S.C. §120;

XXXXX Cover page of published PCT Publication No. WO 00/66077;

XXXXX Copy of International Preliminary Examination dated 12 October 2001;

XXXXX Copy of International Search Report dated 25 July 2000.

XXXXX Copy of Written Opinion dated 18 April 2001.

XXXXX Copy of Response to Written Opinion dated 18 June 2001.

— Amendments to the claims of the International Application under  
 PCT Article 19 (35 U.S.C. 371(c)(3)) are transmitted herewith.

The Filing Fee is calculated below.

CLAIMS AS FILED				
(1) For	(2) Number Filed	(3) Number Extra	(4) Rate	(5) Basic Fee \$710/\$740/\$890/ \$1,040
Total Claims	19 - 20 =	0	x \$18.00	\$ .00
Independent Claims	2 - 3 =	0	x \$80.00	\$ .00
Multiple Dependent Claim Fee		x \$270.00 = \$ .00		
<b>TOTAL FILING FEE</b>		<b>\$740.00</b>		
<b>1/2 FILING FEE FOR SMALL ENTITY</b>		<b>\$0</b>		

XXXX Firm's check in the amount of \$ 740.00 to cover the (\$740.00) filing fee is enclosed;

XXXX The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. 1.16 and 1.17 which may be required with this communication or during the entire pendency of the application, or credit any overpayment, to **Deposit Account No. 01-0467**. A duplicate copy of this Form is enclosed.

XXXX Postcard.

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13 Rec'd PCT/PTC 29 OCT 2001

Address all future communications to: **Charles N.J. Ruggiero, Esq.**  
**Ohlandt, Greeley, Ruggiero & Perle, L.L.P.**  
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**U.S.A.**

October 29, 2001

Date of Signature



Charles N.J. Ruggiero, Esq.  
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**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Certificate No. **EV010449686US**, service under 37 CFR §1.10 and is addressed to: Box PCT, Commissioner for Patents, Washington, D.C. 20231, Attention: DO/EO/US on October 29, 2001.

Victoria E. Roeser

(Typed name of person mailing paper)



(Signature of person mailing paper)

10/018128  
JC12 c'd PCT/PTO 29 OCT 2001  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: **Avon Products, Inc.**

International  
Application No.: **PCT/US00/11529**

Filed: **28 April 2000**

For: **METHOD OF IMPROVING THE AESTHETIC APPEARANCE  
OF EPITHELIA**

Docket No.: **550.0122WOQ**

**RESPONSE TO WRITTEN OPINION**

Box PCT  
Commissioner for Patents  
Washington, D.C. 20231

Sir:

We are enclosing for filing for the above-identified PCT application:

**Response to Written Opinion**

Respectfully submitted,



**Charles N.J. Ruggiero**  
Reg. No. 28,468  
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.  
One Landmark Square, 10th Floor  
Stamford, CT 06901-2682  
US

Date: 18 June 2001

**CERTIFICATION OF EXPRESS MAIL**

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Post Office to Addressee, certificate no. **EL798993510US** in an envelope addressed to: Box PCT, Commissioner for Patents, Washington, D.C. 20231 on 18 June 2001

Victoria E. Roeser  
Name

  
Signature

18/06/2001  
Date

Applicant: Avon Products, Inc.

International Application No.: PCT/US00/11529

Filed: 28 April 2000

For: METHOD OF IMPROVING THE AESTHETIC APPEARANCE OF EPITHELIA

Docket No.: 550.0122WOQ

### RESPONSE TO WRITTEN OPINION

Box PCT  
Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

The Written Opinion, dated 18 April 2001, the response for which is due 18 June 2001, states that claims 1 to 19 lack inventive step under PCT Article 33(3) as being obvious over the Bissett patent in view of the Wilmott et al. patent.

The Bissett patent is described in the Written Opinion as teaching methods for regulating the appearance of fine lines, wrinkles and aging skin. The Bissett patent is also described as teaching various cosmetically acceptable vehicles and a sunscreen. However, the Written Opinion acknowledges that the Bissett patent does not teach a composition having a penetration enhancing agent.

The Wilmott patent is described in the Written Opinion as teaching a composition and method for reducing wrinkles using a stable amount of retinol and ethanol (a penetration enhancer). The Wilmott patent is also described as teaching a sunscreen.

The Written Opinion states that it is obvious to use the teachings of a penetration agent in the Wilmott patent with the teachings of Bissett to achieve a composition known in the art to treat the skin or lips.

The conclusion of the Written Opinion that claims 1 to 19 lack inventive step under PCT Article 33(3) is not well taken. Neither cited patent nor a combination of their teachings yields the present invention.

Neither cited patent teaches the application of their respective compositions to the epithelia, i.e. the lips., let alone improving the aesthetic appearance of the epithelia. The cited patents teach application of their respective compositions to the skin, i.e. the epithelium. The Written Opinion makes reference to lips but does not point to any teachings in the cited patents to support this. The Written Opinion

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further does not set forth a basis for equating treatment of the skin with treatment of the lips.

Treatment of the lips, i.e. epithelia, is materially different than treatment of the skin, i.e. the epithelium. The anatomy and physiology of the lips, both of the vagina and the mouth, differ in many ways from the skin proper. Thus, there is no obvious correlation between treatments for their respective aging pathologies. The present invention is the first to demonstrate a clinical benefit of applying a topical composition having a combination of a retinoid and a penetration enhancing agent. See page 4, line 28 to page 5, line 15 of the specification.

It is apparent from the foregoing that claim 1 to 19 satisfy the requirement of inventive step under PCT Article 33(3).

In addition to the foregoing, the Bissett patent is not prior art under Rule 64.1 of the PCT. The priority application U.S. Serial No. 09/301,570 of the present application was filed on 29 April, 1999. The Bissett patent issued, i.e. published, on 18 April, 2000, well after the filing date of the priority application. Thus, the Bissett patent cannot form any basis for rejection of the present application.

Respectfully submitted



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18 June 2001